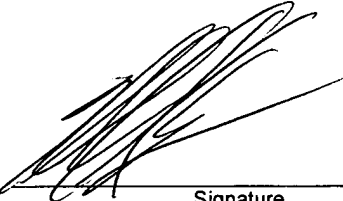




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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 0649-0799P	
		Application Number 09/944,341-Conf. #9771	Filed September 4, 2001
		First Named Inventor Tsuneo SATO et al.	
		Art Unit 2677	Examiner M. Good Johnson
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant /inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input type="checkbox"/> attorney or agent of record. Registration number _____</p> <p><input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. <u>29,680</u></p> <p> _____ Signature Michael K. Mutter _____ Typed or printed name (703) 205-8000 _____ Telephone number February 8, 2006 _____ Date</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>			



Docket No.: 0649-0799P
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Tsuneo SATO et al.

Application No.: 09/944,341

Confirmation No.: 9771

Filed: September 4, 2001

Art Unit: 2677

For: COLOR CHARACTERISTIC DESCRIPTION
APPARATUS, COLOR MANAGEMENT
APPARATUS, IMAGE CONVERSION
APPARATUS AND COLOR CORRECTION
METHOD

Examiner: M. Good Johnson

REASONS FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In addition to the Notice of Appeal which is being concurrently filed, Applicants respectfully request a Pre-Appeal Brief Conference to consider the issues raised in the Office Action dated December 8, 2005.

In rejecting claim 9 the Examiner asserts that it would have been obvious to "include data impossible to be interpolated in a look up table, to reproduce images representative of color values outside a key region of a color management area that are impossible to be interpolated." However, the Examiner provides no support for such a modification, nor does the Examiner indicate which look up table, i.e., the look up table of Henderson or the look up table of Edge, it

would have been obvious to modify. To the contrary, the Examiner merely asserts that it would have been obvious to include missing elements, to achieve functionality achievable with the missing elements.

With regard to the first criteria required to establish obviousness, section 2143.01 of the MPEP states: “[t]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination.” In rejecting claim 9 the Examiner explicitly asserts that it would have been obvious to modify the look up table to include data impossible to interpolate, and implicitly asserts that it would have been obvious to combine the teachings of Henderson and Edge. However, the Examiner fails to provide any motivation for the combination of Henderson and Edge, nor does the Examiner provide any evidence of the desirability of the modification. Accordingly, absent proper motivation to modify the teachings of Henderson and to combine Henderson and Edge, the rejection of claim 9, and claims 10-14 which depend there from, is improper.

In rejecting independent claim 15 and 16, the Examiner again fails to provide any motivation to combine the teachings of Henderson and Edge. Therefore, absent proper motivation to combine Henderson and Edge, the rejection of claims 15 and 16 is improper.

In addition, even if, *arguendo*, one skilled in the art were motivated to combine Henderson and Edge, the combination would still fail to render claims 9-16 unpatentable because the combination fails to disclose each and every claimed element as discussed below.

Independent claim 9 defines a color management apparatus for converting supplied image data using a lookup table of color characteristic data into output image data. The

apparatus includes, *inter alia*, a lookup table composed of characteristic points indicating the relationship between supplied image data and output image data determined to be impossible to be interpolated when a process for converting image data is performed; and an image data converting unit for converting the supplied image data into output image data using the lookup table composed of characteristic points.

Henderson discloses a method of segmenting a digital image into a foreground region and a background region, referred to as a key color region. The method of Henderson includes, *inter alia*, characterizing a distribution of the background or key color, using the distribution to produce a multi-dimensional lookup table having three or more dimensions indexed by color values in the selected color space defining the key color volume, and addressing the multi-dimensional lookup table with color values of pixels in the digital image to determine whether the color values of the pixels are within the key color volume. However, the multi-dimensional lookup table of Henderson is not equivalent to the claimed lookup table because (1) the points of Henderson's lookup table do not indicate the relationship between supplied image data and output image data and (2) the points of Henderson's lookup table do not represent points impossible to be interpolated during an image converting process as claimed.

In response to Applicants previous arguments, the Examiner asserts that "[i]t is the interpretation of the Examiner that the table in Henderson contains values that are possible to be interpolated and the key color values that lie outside the volume are color that are impossible to be interpolated." The Examiner further asserts that "if the [user] can adjust the key color range that would expand the key color range to include colors which were once outside the range and

determined impossible to be interpolated.” These assertions are unfounded for the following reason.

Applicants note that the key color region of Henderson refers to a brightly colored, usually bright green or blue, backdrop or background in front of which objects are photographic. (See column 1, lines 40-50 and lines 57-65 of Henderson). As a result, colors outside the key color region of Henderson do not refer to colors impossible to interpolate, but rather to colors representative of the foreground (i.e., the objects photographed in front of the blue screen). Accordingly, color values outside the key color region do not inherently represent points impossible to interpolate as suggested by the Examiner. Therefore, the mere fact that a user can adjust the key color range does not in and of itself suggest that the increased color range includes colors which were impossible to interpolate during processing.

Furthermore, the Examiner has not addressed Applicant’s argument with regard to the fact that the points of Henderson’s lookup table do not indicate the relationship between supplied image data and output image data.

For at least those reasons presented above, Applicants respectfully request reconsideration and withdrawal of the pending rejections.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Penny Caudle (Reg. No. 46,607) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: February 8, 2006

Respectfully submitted,

By

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